



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF LABOR STANDARDS

# ANNUAL REPORT 2011

*Submitted in accordance with Massachusetts General Laws Chapter 149, §14*



## Table of Contents

Table of Contents .....	2
Reorganization of the Division of Occupational Safety and the Division of Apprentice Training .....	3
Investment in technology .....	3
Records management.....	4
PROGRAM HIGHLIGHTS FOR 2011 .....	4
Prevailing Wage and Minimum Wage Programs .....	4
Division of Apprentice Training .....	5
Employment Agency Program .....	6
On-Site Consultation Program .....	7
Asbestos Program.....	7
Deleading and Lead-safe Renovation.....	8
Occupational Lead-Poisoning Registry .....	11
Massachusetts Workplace Safety and Health Program .....	12
Occupational Safety and Health Statistics.....	12
Mine Safety and Health Program .....	13
Industrial Hygiene Laboratory .....	14
Agency Funding and Revenue Generation.....	15
DLS Application Fee Schedule 2011 .....	16
DOS FTE Count from June 2005-October 2011 (FY05-FY12).....	18
DLS employees during calendar year 2011.....	19

## Reorganization of the Division of Occupational Safety and the Division of Apprentice Training

In January of 2011, Governor Deval L. Patrick filed pursuant to Article 87 of the Amendments to the Massachusetts Constitution, a reorganization of the Executive Office of Labor and Workforce Development. Under this reorganization, the Executive Office of Labor and Workforce Development was divided into five distinct departments, thereby abolishing the former Department of Labor and its divisions and the former Department of Workforce Development and its divisions. All of the programs and responsibilities under the Division of Occupational Safety (DOS) and the Division of Apprentice Training (DAT) were combined and consolidated under a new department organized and named the Department of Labor Standards (DLS). The reorganization was enacted into law on March 11, 2011, under Chapter 3 of the Acts of 2011, “An Act Reorganizing the Executive Office of Labor and Workforce Development.”

Including DAT within DLS has enabled DLS to improve the delivery of services to the building trades and regulated public in three significant ways. First, effective November 18, 2011, the department commenced to issue prevailing wage schedules for public works projects in a format that reflects the breakdown of the total wage rates by displaying the base wage and benefit contributions for each job classification. The new format remedied a defect in the rate sheets by including information on apprentice wage rates going out for the next calendar year – rather than simply the current rate – so that increases in the wage rates for apprentices are properly reflected. The expertise that DAT staff brought in the apprentice area allowed for seamless implementation of the newly-formatted schedule. Second, the prevailing wage and apprentice programs work closely on classification and related issues because the training a tradesperson undergoes is relevant to the determination of wage classification. Finally, the merged staff within the department worked closely with the U.S. Department of Labor (U.S. DOL) on further amendments to the department’s apprentice regulations to ensure that the apprentice program maintains its status as the registration agency, for federal purposes, for apprentices in the Commonwealth.

The mission of DLS has been enhanced to incorporate the work of the DAT: to promote and protect workers' safety and health, wages and working conditions, and to support employers and workers in the utilization of apprenticeship as a workforce development tool. In collaboration with public and private entities, DLS protects workers by means of education and training, workplace safety and health consultation and assessment, occupational injury and illness data collection and analysis, and consistent and responsible administration and enforcement of its statutes and regulations. DLS carries out its objectives in a manner that supports employers and strengthens the Commonwealth's communities and economy.

DLS is comprised of the following programs: Prevailing Wage, Minimum Wage, Employment Agency, On-Site Consultation, Asbestos, Lead, Occupational Lead Poisoning Registry, Massachusetts Workplace Safety and Health, Occupational Safety and Health Statistics, Mine Safety and Health, Industrial Hygiene Laboratory and the Division of Apprentice Training. During 2011, each program either engaged in new initiatives or enhanced its existing services, while serving the people and businesses of the Commonwealth as detailed in this Annual Report.

## Investment in technology

DLS was able to overhaul and update five of its databases, for Lead, Asbestos, and Employment Agency licensing and tracking; the Apprentice Standards database, and the

Workplace Safety and Health Program database. For some of these databases, the upgrades represented the first major system overhaul in fifteen years. Each of the databases was upgraded by adding and enhancing data collection, queries and reports. The scope of work included fixing performance issues and converting/migrating the existing MS Access backend to a more advanced and stable SQL backend. The results have been more accurate tracking and reporting of licenses and certificates for workers, contractors and vendors; better tracking and reporting of apprentice statistics; better case file management and the ability to respond in a more timely way to public requests. The apprenticeship database was upgraded utilizing revenues from a U.S. DOL grant. The grant required the collection of additional data and standardized reporting to the U.S. DOL Office of Apprenticeship. The lead and asbestos database upgrades were accomplished in part by grant funding from the U.S. Environmental Protection Agency (EPA). In addition to the database work, all-in-one network printers, copiers and scanners were procured and deployed to all DLS offices, equipping field employees with modern tools to perform their jobs. The scanning capabilities in each office, coupled with the secure, integrated MPLS network, have allowed faster and more efficient document-sharing to occur, thereby affording better time management for all employees.

### **Records management**

During calendar year 2011, following the strict guidelines of the Massachusetts Statewide Retention Schedule, DLS submitted thirteen requests to the Records Conservation Board for permission to dispose of records, which are not required to be maintained by DLS. The Board authorized DLS staff to dispose of such records. Consequently, DLS staff implemented the disposal of the records as authorized. DLS staff also created an online record retention library which documents the authorization of the Board to dispose of the records. The online record retention library also contains a comprehensive list of permanent documents stored for the potential of future access, and a list of documents that may be destroyed in the future. This project was undertaken not only in an effort to organize agency records and reclaim much-needed space, but also as part of the department's information security plan under Executive Order 504, to maintain the security and confidentiality of personal information.

## **PROGRAM HIGHLIGHTS FOR 2011**

### **Prevailing Wage and Minimum Wage Programs**

The Massachusetts Prevailing Wage Laws establish minimum wage rates for workers on public construction projects, workers engaged in school bus transportation, operators of vehicles and equipment for engaged by public entities for public works purposes (including solid waste and recycling), workers engaged by employers which provide janitorial services for state buildings, office moving services and for certain employees of housing authorities. DLS is the agency responsible for issuing prevailing wage rate sheets (which contain hourly wage rates that workers must be paid), and interpreting and administering the Prevailing Wage Law. DLS also administers the Commonwealth's Minimum Fair Wage Law and Regulations, which address not only the payment of the basic minimum wage but also overtime; the minimum wage for tipped employees; reporting pay; on-duty or on-call time; travel time and expenses; deductions for lodging, meals, and uniforms; and wage records that employers are required to keep.

During calendar year 2011, DLS continued to meet quarterly with representatives of businesses and trade unions on Prevailing Wage issues to provide a forum for such representatives to provide input to DLS. From those meetings, in an effort to increase



transparency in the rate-setting process, the DLS commenced to issue prevailing wage schedules for public works projects in a format that reflects the breakdown of the total wage rates by displaying the base wage and allowable benefit contributions for each job classification. The revised wage schedules were also redesigned to incorporate the trade organization from which the wage rate is derived. The revised wage schedules, which took effect on November 18, 2011, represented the first time in over two decades that additional rate information was routinely provided to the regulated public.

Over the course of the calendar year, DLS issued five advisory opinions interpreting the Prevailing Wage law, including: clarifying the duration of wage rates for multiyear school bus contracts and explaining the application of the Prevailing Wage law to ice skating rinks owned by the Commonwealth and operated and managed by private entities. Other advisory opinions were issued to the Office of the Attorney General for enforcement purposes. DLS issued two advisory opinions interpreting the minimum wage law, including establishing guidelines to determine when an unpaid internship program is legal under the Minimum Fair Wage law.

DLS worked with the Commonwealth's Operational Services Division (OSD) to alter its procurement process for statewide construction and services contracts to ensure compliance with the Prevailing Wage law. It is hoped that this joint effort will bring much-needed clarity to the responsibility on the part of an awarding authority to request a current, project-specific prevailing wage schedule for applicable projects. In another compliance assistance effort, DLS staff participated in outreach and working groups with the Office of the Inspector General (OIG) and attended a number of trade conferences related to its prevailing and minimum wage programs.

Prevailing Wage schedules issued	+11,000
Opinion letters issued for prevailing and minimum wage	7
Minimum Wage waivers issued	182
Wage program information line requests and resolutions	3,800

### Division of Apprentices Training

The DAT is responsible for promoting, developing and servicing registered apprenticeship programs in the Commonwealth of Massachusetts. In an effort to boost apprenticeship awareness among community organizations, career centers, regional employment boards, veterans, vocational schools and community colleges and to bolster EEO/Affirmative Action compliance resources for registered apprentice programs, the DAT developed an action clinic plan for providing learning and networking opportunities. On December 16, 2011, the first such event occurred at the New England Regional Council of Carpenters Training Facility in Millbury. Four more clinics are scheduled to be completed by June 30, 2012.

Telephone calls:	2,640
DUA dollar amounts (payments)	\$378,970.41
DIA Verifications	105
Sponsor verifications	1,270
New Sponsors	105
Cancelled Sponsors	42
Graduation Certificates Generated	844
Total Active Apprentices	5,353

Total Sponsors	859
Total Active Programs	1,633
Sponsor Visits	985
New Apprentices	1,728
Renewed Apprentice ID's	1,892
Veterans Registered	126
Retained Revenue-Apprentice ID	\$119,600.00
Deposited to the General Fund	\$281,410.00
Sponsor Verifications, Sponsor Annual Fee and Misc	\$281,410.00
Total 1 <sup>st</sup> Year Apprentice Wages	\$23,139,293.00

### Employment Agency Program

The Employment Agency Program protects the rights of workers being placed by employment agencies, and ensures those agencies use fair, ethical, and legal business practices. The program administers licensure and registration of entities in accordance with M.G.L. c. 140, §§46A-46R. Compliance officers conduct inspections of worksites throughout Massachusetts. In a continuing effort to actively participate in the mission of the Joint Task Force on the Underground Economy and Employee Misclassification, DLS continued compliance checks on Asbestos, Lead and Employment Agency license applications with the Department of Unemployment Assistance (DUA) and Fair Share Contributions (FSC) unit, to check for compliance with taxes and contributions. This initiative, which was initiated by DLS, paved the way for other agencies to follow suit within their own licensing realms. It continues to be successful, in that DLS is responsible for over \$1.5M being recouped from businesses that were not compliant with DUA/FSC obligations.

An intra-agency initiative conceived in 2010 was brought to fruition during 2011. Last Spring, DLS's Consultation Program Worker Safety Tip cards, created in four different languages to give safety information to temporary workers and day laborers, were distributed to ten worker centers across Massachusetts by Employment Agency Program staff. The four occupational safety topics covered in the cards were: Construction Safety, Exits, Workplace Health and Safety, and Worker Rights and Responsibilities. Each card contained six different safety tips, and they were translated into Spanish, Portuguese, Vietnamese, and Khmer. Employment Agency Program staff visited the offices of the worker centers, whose staff, in turn, distributed the cards to day laborers and temp workers with whom they work closely. This joint effort on the part of two programs within DLS was a collaboration among colleagues sharing different areas of expertise, coming together to help address the need to educate day laborers and temporary workers about their legal right to safe and healthy workplaces.

On-site visits	567
Professional licenses and registrations issued	898
Civil administrative penalties	Written warnings: 10 Civil citation w/civil penalty 3 Fines assessed: \$1,375 Fines collected: \$1,200 License denials: 3

## On-Site Consultation Program

Through its On-Site Consultation Program, DLS offers a free service designed to help employers recognize and control potential safety and health hazards at their worksites, improve their safety and health programs, assist in training employees, and possibly qualify for a two-year exemption from programmed Occupational Safety and Health Administration (OSHA) inspections. This service, jointly funded by the DLS and the U.S. DOL, OSHA, is primarily targeted for smaller businesses (fewer than 250 employees per establishment or 500 employees nationwide) in high hazard industries such as manufacturing, healthcare, and construction. It is a confidential service in which business names and any other information provided, including any unsafe or unhealthy working conditions found, will not be reported routinely to federal OSHA inspection staff.

Among the achievements for 2011, the program conferred the prestigious Safety and Health Achievement Recognition (SHARP) status on one new Massachusetts business. Consultation Program staff offered five OSHA 10 hour in Construction courses; one OSHA 10 hour in General Industry, and two seminars on recognizing occupational safety hazards for employers. In addition, the program offered a successful safety seminar on the *Top Four Construction Hazards*, to which 80 attendees availed themselves, and program staff sent a targeted mail piece to 941 Massachusetts businesses with a potential for combustible dust hazards. During 2011, staff also engaged in outreach and education at the Massachusetts Electrical Contractors Association conference, the American Society of Safety Engineers conference, the New England Grows event, and the New England Conference on Occupational and Environmental Medicine.

On-site safety and health visits	513
Hazards identified	3,324
Interventions conducted	86

## Asbestos Program

The DLS Asbestos Program is responsible for the regulation of occupational asbestos exposure in the Commonwealth. The program works with employers, employees, unions and state and local agencies to create healthier and safer work conditions for Massachusetts workers through site visits, analytical services, and technical information. The program also aids in the coordination of OSHA, EPA and multi-state regulatory authorities along with the Consortium of North East States (CONES) in the common goal of protecting the public from long term damage from excessive asbestos exposure.

In an effort to assist the regulated community, DLS implemented an electronic asbestos notification waiver request system in 2011, designed to ease the process in obtaining a waiver of the ten-day asbestos project notification period for emergency abatement jobs. The electronic system allows DLS inspectors to view waivers and conduct compliance inspections at identified worksites.

One of the department's most ambitious initiatives occurred within the work of the Asbestos Program. During 2011, DLS adopted a new strategy to identify those schools regulated by the Asbestos Hazard Emergency Response Act (AHERA) which pose a greater risk of exposure to asbestos fibers to students, teachers, and staff. DLS identified those schools which had abatement work planned for the summer months, and sent to the schools a checklist and

packet of information about the records that are required to become part of their asbestos management plans. In addition, at the very outset of the school year, DLS sent a letter to all schools regulated by AHERA, with the assistance of the Executive Office of Education, requesting copies of their most recent three-year re-inspection report for DLS review, to check for all of the required elements as required by AHERA. In response to that request, DLS has received hundreds of management plans and re-inspection reports. DLS is reviewing the plans for overall compliance with AHERA. Some common deficiencies noted in our reviews include improper sampling schemes, misclassification of asbestos containing materials, improper recordkeeping requirements and re-inspection times, and inconsistent information when compared with previous re-inspection reports. The overall goal of this initiative is to identify high exposure-risk schools, identify their deficiencies with regard to AHERA, and aid them in becoming compliant with AHERA. One other goal of this initiative is to identify any pattern of common deficiencies within management plans produced by particular consultants. DLS has identified common deficiencies among a number of the management plans and has issued written warnings and civil penalties to the consultants involved. Some of the consultants have initiated compliance with the corrective measures ordered by DLS to remedy, without further costs to the school districts, the deficiencies in management plans identified by DLS. Given limited staffing resources, the re-inspection report review will take many months. DLS embarked on this initiative with the understanding that it is a multi-year approach to the manner in which AHERA compliance is evaluated.

On-site safety and health visits, including active and inactive worksites	411
On-site safety and health visits, active worksites only	200
Hazards identified	92
Training sessions conducted	13
Workers trained	465
Licenses issued	3,906
Civil administrative penalties	Written warnings: 21 Civil citation w/civil penalty: 1 License suspensions: 3 (per DOR) Fines assessed: \$2,200

## Deleading and Lead-safe Renovation

### *Compliance Assistance, Outreach and Education*

The goal of DLS's Lead Program is to reduce the incidence and severity of lead exposures for the Commonwealth's workers and other members of the general public. DLS accomplishes this goal by administering and enforcing standards for renovation, repair and painting carried out in older homes and child-occupied facilities that may contain lead paint as well as for deleading operations.

In June, DLS sent a letter to the Commonwealth's local building/code enforcement inspectors, which the Department of Public Safety (DPS) distributed on DLS's behalf through their communication channels. The purpose of the letter was to provide basic information about Lead-Safe Renovation/RRP, requirements of the law, and DLS contact information. In



November, a similar letter was sent to all local health departments on DLS's behalf through the Massachusetts Environmental Health Officers Association.

In another cooperative effort with DPS, DLS secured recognition of Deleading and Lead-Safe courses as meeting the eligibility criteria for the new DPS continuing education requirements for persons renewing their Construction Supervisor Licenses (CSL) or Building Inspector licenses. With DPS's requirement for lead paint safety training as part of a CSL renewal process, the recognition of Lead-Safe and Deleading courses will make it easier for affected workers to comply with licensure requirements, and will bolster awareness and education about DLS's Lead-Safe Renovation requirements. Compliance with both the respective DPS and DLS regulations are aided through this mutually-beneficial effort.

During 2011, DLS inspectors made it part of their daily field routines to visit local building departments in all areas of the state, in order to make an acquaintance and to provide them with Lead-Safe/RRP information. Response and level of receptiveness to DLS's presence was varied from municipality to municipality, but in general, this initiative was effective in making building inspectors aware of proper referral information for complaints or questions. As awareness of the Lead-Safe/RRP regulation grows, a greater number of building departments and inspectors are asking contractors if they are trained and licensed as Lead-Safe contractors before they issue building permits.

In another partnership effort, discussions with the Office of Consumer Affairs and Business Regulation (OCABR) ensued, in an effort to reach the registered Home Improvement Contractor (HIC) population. DLS shared outreach materials with OCABR to distribute at shows and other outreach events during 2011, and jointly served on panels and industry roundtables to share information on DLS's role in renovation work. OCABR and DLS have both recognized that there is a common population which both agencies are regulating, and our continued collaboration is beneficial to all. Throughout the year, DLS attended panels and forums at home shows and industry trade meetings in order to educate attendees about Lead-Safe/RRP requirements. Some of these were done in coordination with OCABR efforts.

DLS also contacted the Department of Housing and Community Development (DHCD) and discussed the applicability of the Lead-Safe Renovation Rule to local housing authorities whose own employees perform maintenance work on their properties. DHCD, which oversees public housing in the Commonwealth, identified approximately 130 housing authorities that contain Target Housing. DHCD then sent a notice to those authorities requiring them to be trained and to obtain a DLS Lead-Safe Renovation Contractor License Waiver in order for them to be in compliance with the Lead-Safe Renovation regulations when they perform any renovation work subject to the regulation. DLS is hoping that as the housing authorities learn about RRP, any contractors performing renovation work will also learn of the RRP requirements and get trained and licensed themselves.

DLS representatives participated in interviews with two Portuguese radio stations to inform the listening audience about the Lead-Safe Renovation regulations. The first interview, which took place in July was with *WSRO* in Framingham MA, with a listenership of 50,000, according to radio station executives. The second interview was arranged and conducted as part of a DLS settlement agreement with a painting contractor who had been issued a civil citation and penalty because of violations of the Lead-Safe Renovation regulations. The host of the radio show asked DLS questions about Lead-Safe/RRP, and following that, the painting contractor provided testimony about his experience in getting caught by DLS, learning about the hazards of working with lead paint, and reasons why contractors should follow the law. The radio station,

WESX 1230 in Chelsea, MA estimates its listening population to be 35,000 radio and internet listeners.

In July of 2011, in conjunction with the Governor's Communications Office, an ethnic media specialist and the Executive Office of Labor and Workforce Development developed a press release on Lead-Safe/RRP regulations for the Spanish-speaking and Portuguese speaking populations. Two Portuguese newspapers in the New Bedford/ Fall River area published the release. In addition, the *Cape Cod Times* published an article about renovation work and the requirements for training and licensure, as well as the need for trainers to offer courses to contractors in the Cape Cod region. DLS was quoted in the article

DLS was able to participate in a no-cost public service advertising campaign through coordination with the Massachusetts Department of Transportation's (MassDOT) Office of Outdoor Advertising (OOA), during the summer of 2011. As part of an OOA pilot program, DLS was able to secure the expertise of the OOA to design and advertise two digital billboard displays about Lead-Safe Renovation. The billboards were displayed through the summer months on digital billboards in Lawrence, Stoneham, Medford, Foxborough, Fall River, New Bedford and Chicopee.



*DLS Public Service Announcements courtesy of MA DOT's Office of Outdoor Advertising*

### Enforcement

In the fall of 2011, DLS modified its civil penalty process through the use of a simplified penalty matrix. The matrix categorizes three basic types of violations—records, work practices, and training/licensure—and the severity of those violations are evaluated based upon potential for harm as minor, intermediate, and major. In the last quarter of 2011, DLS assessed close to \$46,000 in civil penalties to contractors that were cited for violations such as operating without having received required training, operating without required licensure, and for engaging in unsafe work practices. Toward the end of 2011, DLS was working on a plan to make its civil fine assessments public.

On-site safety and health visits, including active and inactive worksites	913
On-site safety and health visits, active worksites only	550
Hazards identified	783
Training sessions conducted	4
Workers trained	57
Licenses issued	2,285
Deleading civil administrative penalties	Written warnings: 0 Civil citation w/civil penalty: 0 License suspensions: 2 (per DOR) Fines assessed: \$0
Lead-Safe Renovation / RRP civil administrative penalties	Written warnings: 8 Civil citation w/civil penalty: 18 License suspensions: 0 Fines assessed: \$45,750 Appeal hearings: 2 Conditional licenses issued: 1

### Occupational Lead-Poisoning Registry

In 1990, the Occupational Lead Poisoning Registry Law (M.G.L. Chapter 200) was enacted in Massachusetts. The Registry was created because occupational exposure to lead is still a major cause of disease. Excessive exposure can cause serious damage to the blood, kidneys and nervous and reproductive systems. Occupational lead poisoning is still quite common in the United States, despite the availability of effective control technologies and the existence of state and federal regulations designed to limit exposure. The Occupational Lead Poisoning Registry tracks elevated blood lead levels, provides educational counseling and guidance to workers, and through its medical consultant, offers advice to physicians on the medical management of lead poisoning.

During 2011, the Lead Registry created and disseminated education and outreach materials to the Portuguese-speaking worker population. In addition, DLS entered into preliminary discussions with the Massachusetts Department of Public Health (DPH) on possible use of a coordinated reporting system for all elevated blood lead level reports, to lessen redundancy of reporting and modernize the reporting scheme. Discussions will continue into 2012.

In accordance with protocol, the Lead Registry referred two cases to OSHA for follow-up based on elevated blood lead reports. Workers in these two cases were engaged in bridge painting work. In addition, the Lead Registry joined ten other states by providing non-confidential data to a researcher from Emory University for a study being conducted on the health effects of adult occupational lead exposure among lead exposed workers. In June of 2011, DLS's Environmental Engineer who oversees the Lead Registry represented DLS at the 2011 Council of State and Territorial Epidemiologists (CSTE) conference in Pittsburg, Pennsylvania.

Blood Lead Level	Reports	Individual (Peak Level)	New Cases
25-39	225	159	127
40-49	45	23	18
50-59	13	8	8
60+	13	5	5

## Massachusetts Workplace Safety and Health Program

The mission of the Massachusetts Workplace Safety and Health program (WSHP) is to prevent job-related injuries and illnesses among the Commonwealth's public sector workers and assist federal agencies in promoting health and safety in selected areas in the private sector. The program accomplishes all of its responsibilities through investigation, assessment, education, technical assistance, outreach and targeted enforcement by its team of occupational safety and health specialists. The program is fervent in its daily work knowing that safe and healthy workplaces promote a robust economy, stable society, steadfast governmental service delivery, sound family units and valued individuals.

One of the most notable program accomplishments of 2011 included working with the New England Public Power Association to develop a policy manual for line worker safety. This partnership was forged after a municipal line worker was involved in a serious on-the-job accident. Additionally, the WSHP worked with the Department of Environmental Protection (DEP) to develop new guidelines for water tower safety. The program continued to be the driving force behind Executive Order 511 and its goal to provide safer working conditions for state employees. Signed in 2009, the Executive Order was issued by Governor Patrick to form the Massachusetts Employee Safety and Health Advisory Committee. During 2011, DLS continued to provide administrative and technical assistance to the Advisory Committee; trained 42 joint labor-management committees in each of the eight secretariats, for a total of 441 workers trained; crafted the implementation strategy for the survey of safety and health hazards required by the Executive Order; drafted all hazard assessment materials for 12 serious hazards; drafted all gap analysis guidance materials, including the "answer documents," which are comprehensive, accessible summaries of the national worker protection standards and guidelines for each of the targeted hazards, to serve as the standard by which existing practices and policies are to be compared.

On-site safety and health visits	82
Hazards identified	514
Training sessions conducted	63
Workers trained	5507
Cases resolved (both phone and investigation letters)	39

## Occupational Safety and Health Statistics

The Department of Labor Standards administers the Annual Survey of Occupational Injuries and Illnesses for all private-sector and public-sector industries, trades, and occupations. This survey, conducted in partnership with the U.S. Department of Labor, Bureau of Labor Statistics, provides detailed information on injuries and illnesses in the workplace. The Bureau of Labor Statistics is the principal fact-finding agency for the Federal Government for labor economics and statistics. DLS also conducts the OSHA Data Initiative every spring/summer, collecting workplace injury and illness data from thousands of private sector establishments in Massachusetts.

In 2011, the program instituted a public sector outreach plan to encourage public sector units selected for participation in the BLS Annual Survey of Occupational Injuries and Illnesses

(SOII), to compile the requisite records and submit survey data. While the BLS survey has been part of the nation's primary public health surveillance system for job-related injuries and illnesses since the 1970's, a critical component of the data set had been missing: the occupational injury and illness experience among public sector workers. In order to design adequate safety and health programs for Massachusetts public sector workers, there must first be a baseline of injury and illness rates. While participation in this survey is voluntary for public sector establishments, Executive Office of Labor and Workforce Development Secretary Joanne Goldstein sent a letter to local government units urging every employing unit selected to participate fully in the survey. The Secretary's letter encouraged local government by informing them that the data provided by randomly-selected public sector worksites is critical to enhancing workplace safety for all state and local government employees. Participation in the survey, if selected, is mandatory for state workplaces that are part of the Executive Office, under the provision of Section 5 of Executive Order 511. In addition to sending the letter from Secretary Goldstein, program staff made targeted phone calls to local and state units to encourage participation in an effort to bolster public sector response rates.

In December of 2011, the program's Research Analysts completed a BLS training in Washington, DC, on the recent overhaul to the national Occupational Injury and Illness Classification System (OIICS) manual, effective for the 2011 survey. The OIICS manual, created in 1992, is used to code all of the injury and illness cases reported through the national SOII.

Injury and illness employer surveys completed	7,497
Injury and illness worker cases completed/coded	7,486

### Mine Safety and Health Program

The Mine Safety and Health Program is administered in Massachusetts by the Department of Labor Standards in cooperation with the U.S. Department of Labor, Mine Safety and Health Administration. Under 30 CFR Part 56, safety and health standards are required to be in place for all surface metal/non-metal mines throughout the nation. Initial and annual refresher training of all mining employees is required as well (30 CFR Part 46). These requirements apply to the approximately 150 mining operations in Massachusetts, which include sand and gravel pits, crushed stone operations, and quarries. Efforts by the Department of Labor Standards are focused on preventing injuries and illnesses by conducting site inspections and providing training for employees.

The Mine Safety and Health Program prepared for its yearly training and refresher training sessions by developing a training course and mailing out 265 training notices to mine operators and contractors. The topics of training included the following: introduction and pre-test; conveyor safety; aerial lifts and fall protection; fatality reviews; importance of hazard communication; hazard recognition; first aid; noise and hearing conservation; dust; safe driving and blind spots; traffic control; hazard awareness; electrical hazards and control of hazardous energy; miners' rights and responsibilities; post-test; review and evaluation.

The program members themselves attended a mine safety training seminar for trainers (TRAM) in Beckley, West Virginia. The seminar was combined with a state grant meeting, and MSHA policies for training-related topics were shared with attendees.



On-site safety and health visits	24
Hazards identified	514
Training sessions conducted	13
Workers trained	650

## Industrial Hygiene Laboratory

The department's industrial hygiene laboratory, which provides analytical and technical support to engineers and inspectors within the department, as well as to unions, local boards of health and state agencies, was moved from 1001 Watertown Street West Newton where it had been located for the last 27 years, to a newly-renovated laboratory located in the William X. Wall Experiment Station at 37 Shattuck Street in Lawrence. The Wall Station is a Department of Environmental Protection (DEP) facility that underwent a \$30M facility upgrade and renovation from 2007-2011. According to the DEP, "The station was founded in 1887 by the Massachusetts State Board of Health to conduct research leading to the development of practical methods for treating sewage, industrial wastes and public drinking water supplies."<sup>1</sup> The renovation and new construction transformed the old state environmental laboratory into a state-of-the-art "green" facility designed as a Leadership in Energy and Environmental Design (LEED) building.

According to the DEP, the green upgrades include: a 52.5kW solar photo-voltaic system for on-site renewable energy production; use of the existing site as a Brownfield redevelopment, while maximizing open space; use of rain gardens and detention basins for improved environmental management of storm water; water-efficient landscaping; a high-performance roof and smaller green roof to reduce the heat-island effect; a rain-water reclamation system for reuse to flush toilets and operate the cooling tower; water-efficient plumbing system with 40 percent water savings; optimized energy performance with 21 percent reduction in energy use over the LEED building baseline and estimated savings of more than \$50,000; windows that allow daylight to 75 percent of the space; and plug-in charging stations for two electric vehicles.<sup>2</sup> DLS's laboratory was designed to conform to the building's overall efficiency and sustainability standards. DLS will continue to analyze samples collected from workplaces throughout the Commonwealth to assist in the identification and subsequent control and elimination of hazards to workers.

Laboratory samples, analyses, and controls processed	1,348
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<sup>1</sup> Massachusetts Department of Environmental Protection, Air Assessment Branch & Division of Environmental Analysis, *History of the Wall Experiment Station*: <http://www.mass.gov/dep/about/organization/wes.htm#history>

<sup>2</sup> Massachusetts Department of Environmental Protection, Public Participation and News: November 2, 2011, *Department of Environmental Protection Cuts Ribbon on Newly Expanded, LEED-Certified State Environmental Laboratory in Lawrence* <http://www.mass.gov/dep/public/press/1111leed.htm>

### Agency Funding and Revenue Generation

<b>FY12 Funding</b>	
State Appropriation	\$ 1,920,041.00
Retained Revenue	\$ 452,850.00
DAT Modernization (one-time)	\$ 48,513.00
DAT VA Program Trust	\$ 64,316.00
DAT Card Trust	\$ 207,000.00
DAT Partnering Apprenticeship (one-time)	\$ 25,000.00
ELW IT Budget (DLS share)	\$ 37,011.00
Mine Safety and Health Administration (MSHA) Training	\$ 65,651.00
Bureau of Labor Statistics	\$ 64,459.00
Adult Blood Lead Levels Surveillance	\$ 19,500.00
TSCA Asbestos Licensing and Monitoring	\$ 108,000.00
TSCA Lead Licensing and Monitoring	\$ 360,000.00
OSHA Data Initiative	\$ 86,848.00
OSHA Onsite Consultation	\$ 1,413,000.00

<b>Calendar Year 2011 (January 1, 2011-December 31, 2011) Revenue Collected by DLS</b>	
Blood Lead Testing	\$ 680.00
Surcharges	\$ 356,775.00
Applications for Minimum Wage Waivers for Day Camps	\$ 11,600.00
Applications for Minimum Wage Waivers for Special Wage Permits	\$ 1,600.00
Applications for 120 day Seasonal Permit for Overtime Exemption	\$ 12,000.00
Applications for Employee Uniform Deposits and Waivers	\$ 100.00
Civil Fines	\$ 2,675.00
Applications for Employment Agency Licensure & Registration	\$ 322,755.00
Applications for Lead Discipline Licenses (including RRP)	\$ 210,415.00
Applications for Asbestos Discipline Licenses	\$1,076,532.00
Miscellaneous (DLS)	\$ 481.02
Third Party Right-to-Know instructors	\$ 600.00
Sponsor Verifications	\$ 93,050.00
Sponsor Certifications	\$ 187,475.00
Dispensing Optician Application Fees	\$ 3,640.00
Apprentice ID Cards	\$ 120,921.00
Veterans' Payments	\$ 62,070.15
Miscellaneous (DAT)	\$ 397.82
<b>TOTAL</b>	<b>\$2,463,766.99</b>

### DLS Application Fee Schedule 2011

TITLE	FEE	SURCHARGE <sup>1</sup>	SURCHARGE <sup>2</sup>	TOTAL
<b>Employment Agencies</b>				
Licensed Employment Agency (one to four counselors)	\$250		\$50	<b>\$300 per year</b>
Licensed Employment Agency (five or more counselors)	\$500		\$50	<b>\$550 per year</b>
Registered Employment Agency (main office)	\$250		\$50	<b>\$300 per year</b>
Registered Employment Agency (each branch office)	\$130		\$50	<b>\$180 per year</b>
<b>Right to Know Program</b>				
Third Party Instructor/Consultant Registration	\$20			<b>\$20 annual</b>
Training Seminar Attendance Fee	\$50			<b>\$50 per person</b>
<b>Asbestos Abatement</b>				
Asbestos Abatement Contractor	\$2,000		\$50	<b>\$2,050 annual</b>
<b>Asbestos Abatement Certifications</b>				
Supervisor	\$200		\$25	<b>\$225 annual</b>
Management Planner <sup>3</sup>	\$600		\$25	<b>\$625 annual</b>
Inspector <sup>4</sup>	\$600		\$25	<b>\$625 annual</b>
Project Designer	\$600		\$25	<b>\$625 annual</b>
Project Monitor	\$600		\$25	<b>\$625 annual</b>
Analytical Services	\$700		\$50	<b>\$750 annual</b>
Training Provider	\$1,700		\$50	<b>\$1,750 annual</b>
Asbestos Abatement Worker License	\$50		\$25	<b>\$75 annual</b>
Asbestos Abatement Duplicate License	\$20		\$25	<b>\$45 per License</b>
Asbestos Abatement Duplicate Certification	\$20		\$25	<b>\$45 per Certification</b>
<b>Lead Abatement</b>				
Deleader Contractor License	\$500	\$25	\$50	<b>\$575 annual</b>
Deleader Supervisor License	\$100	\$25	\$25	<b>\$150 annual</b>
Deleader Certification-Training Provider	\$1,700	\$25	\$50	<b>\$1,775 annual</b>
Deleader Duplicate License	\$20		\$25	<b>\$45 annual</b>
Deleader Worker License		\$25	\$25	<b>\$50 annual</b>
Lead-Safe Renovator Contractor License	\$100	\$25	\$250	<b>\$375 every 5 years</b> <i>(includes the \$50 surcharge for the 2<sup>nd</sup> through 5<sup>th</sup> years of the license)</i>
Lead-Safe Renovator Training Provider	\$1,700	\$25	\$50	<b>\$1,775 (fee waived for State, federally recognized Indian Tribe, local government or non-profit organization; \$75 surcharge still applies)</b>
Lead-Safe Renovator Duplicate License	\$20	\$25		<b>\$45 annual</b>
Blood Lead Test	\$20			<b>\$20 per test</b>

<b>Minimum Wage Program</b>				
Seasonal Wage Certificate for Residential and Day Camps	\$100			<b>\$100 per person</b>
Special Wage Permit for Sheltered Workshops, Employees with Disabilities in Community Employment, and Student Waivers	\$100			<b>\$100 per year</b>
120 Days Seasonal Permits for Overtime Exemptions	\$200			<b>\$200 per season</b>
Approval for Employee Uniform Deposits and Waivers	\$100			<b>\$100 per year</b>
<b>Division of Apprentice Training</b>				
Sponsor Fee	\$300			<b>\$300 per employer/year</b>
Apprentice ID card	\$35			<b>\$35 per apprentice/per year</b>
Dispensing optician apprentice application	\$40			<b>\$40 per apprentice (one-time fee)</b>
Sponsor verification	\$50			<b>\$50 per employer / per request</b>

<sup>1</sup> All persons licensed to perform deleading services are required to pay a \$25.00 surcharge in accordance with section 22 of Chapter 482 of the Acts of 1993, which reads in relevant part: "Amounts raised by said surcharges shall be deposited into a retained revenue account hereby established for the department of public health, for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues, as required by section one hundred and ninety-two B and section one hundred and ninety-seven A of chapter one hundred and eleven of the General Laws, and for training of lead paint inspectors as well as homeowner training for those aspects of lead paint abatement or containment which the department, through regulations, authorizes homeowners to perform themselves. The department shall use amounts in said retained revenue account for the aforesaid purposes and for no other, without the need for further appropriation."

<sup>2</sup> In accordance with Section 212 of chapter 184 of the Acts of 2002, these surcharges shall be collected for the purpose of conducting "occupational safety and health inspections, assessment and other operations as required by [the statutes governing lead abatement, asbestos abatement, and the regulation of employment agencies]."

<sup>3</sup> A person applying for certification as an Asbestos Inspector and as an Asbestos Management Planner at the same time need pay only one fee (including surcharges).

<sup>4</sup> See footnote 3.

**NOTE:** Fees for Employment Agencies, Right-to-Know, Asbestos, Lead, and Minimum Wage have been established by the Executive Office for Administration and Finance pursuant to 801 CMR 4.02, the Massachusetts regulation governing Fees, Licenses, Permits and Services to be Charged by State Agencies. Fees for Apprentice Training have been set in accordance with Chapter 26 of the Acts of 2003.

### DOS FTE Count from June 2005-October 2011 (FY05-FY12)

Most notably, during calendar year 2011, the employees of the Division of Occupational Safety and the Division of Apprentice Training were merged into one department, the Department of Labor Standards (DLS). During the latter half of the year, four employees were transferred out of DLS as part of the Secretariat-wide administrative and financial function consolidation, joining other EOLWD subject matter departments in finance, human resources, and information technology. DLS was able to backfill three positions in its safety and health programs—a Research Analyst and two Industrial Safety and Health Inspectors—and a new Administrative Assistant position to assist with asbestos and lead licensing was filled. One manager retired in April; the position was not backfilled in 2011.

FY	Date	FTE
FY12*	10/1/11	53.0
FY12*	6/18/11	52.8
FY12*	3/26/11	51.8
FY11	12/18/10	44.8
FY11	9/25/10	44.2
FY10	6/19/10	47.2
FY10	3/27/10	49.0
FY10	12/19/09	49.0
FY10	9/26/09	47.7
FY09	6/20/09	51.7
FY09	3/28/09	51.1
FY09	12/20/08	52.4
FY09	9/27/08	53.0
FY09	7/5/08	51.0
FY08	6/21/08	51.8
FY08	3/29/08	52.3
FY08	12/22/07	52.3
FY08	9/29/07	52.9
FY07	6/23/07	52.9
FY06	6/24/06	52.4
FY05	6/25/05	53.1

\*NOTE: IN FY12, the former Division of Apprentice Training (DAT) was merged with the former Division of Occupational Safety (DOS) to form the Department of Labor Standards (DLS). DAT accounted for 7.0 FTEs on 3/26/11, 6/18/11, and 10/1/11, adding to the DLS FTE counts of 44.8 on 3/26/11; 45.8 on 6/18/11; and 46.0 on 10/1/11.



DLS employees during calendar year 2011

***Administration***

Heather Rowe, Director  
David Wallace, Deputy Director  
Patricia DeAngelis, General Counsel  
Tina Fontaine, Personnel Officer  
Carol McQuilken, Business Management Specialist  
Patricia Washington, Business Management Specialist  
Barbara Shultze, Administrative Assistant

***Apprenticeship Training***

Rita Gill, Program Coordinator  
Andrea LaRose, Administrative Assistant  
Kerinton Levy, EDP Systems Analyst  
Henry Mattuchio, Compliance Officer  
Madeleine McGuire, Compliance Officer  
Francis Mooney, Compliance Officer  
Lorraine O'Connor, Administrative Assistant

***Investigations and Enforcement***

Brian Wong, Manager  
Jennifer Callari, Compliance Officer  
Avelina Correia, Industrial Safety & Health Inspector  
Gary Gaspar, Industrial Safety & Health Inspector  
Jennifer Gearing, Industrial Safety & Health Inspector  
Alexander Murphy, Industrial Safety & Health Inspector  
Michelle O'Leary, Industrial Safety & Health Inspector  
Garry Pharris, Industrial Safety & Health Inspector  
Rebecca Reese, Compliance Officer

***Licensing and Regulation***

Ernest Kelley, Manager  
Melissa Butts, Administrative Assistant  
James Dello Russo, Program Coordinator  
Ozelle Rivera, Administrative Assistant

***Prevailing and Minimum Wage***

Kathleen Coyne, Program Coordinator  
Stephen Falcone, Administrative Assistant

*Safety and Health Programs*

Robert Kenrick, Manager  
Imani Bishop, Research Analyst  
Jean Cho, Industrial Safety & Health Inspector  
Kevin Clarke, Industrial Safety & Health Inspector  
Stephen Dagle, Industrial Safety & Health Inspector  
Donald Delikat, Environmental Engineer  
Mary Dozois, Environmental Engineer  
Kathryn Flannery, Environmental Engineer  
Maxine Garbo, Environmental Engineer  
Hilary Hackbart, Environmental Engineer  
Susan Humphreys, Administrative Assistant  
Michael Kissel, Environmental Engineer  
Frank Kramarz, Environmental Engineer  
Justin Krassner, Industrial Safety & Health Inspector  
Marvin Lewiton, Environmental Engineer  
Jon Lifvergren, Industrial Safety & Health Inspector  
Jean Manoli, Environmental Engineer  
Janet McKenna, Environmental Engineer  
Robert Nicotera, Environmental Engineer  
Nancy Pearce, Environmental Engineer  
Arthur Pennesi, Industrial Safety & Health Inspector  
Paul Petrowski, Industrial Safety & Health Inspector  
Richard Rabin, Environmental Engineer  
Sean Ross, Research Analyst  
Patricia Sutliff, Environmental Engineer  
Joel Weddig, Environmental Engineer  
Rebecca Wilkof, Research Analyst

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